



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N • Olympia, WA 98501-1091 • (360) 902-2200, TDD (360) 902-2207
Main Office Location: Natural Resources Building • 1111 Washington Street SE • Olympia, WA

February 14, 2005

The Honorable Dean Maxwell
City of Anacortes
Post Office Box 547
Anacortes, Washington 98221-0547

Dear Mayor Maxwell:

It was a pleasure to talk with you, Ian Munce, and Amy Kosterlitz on January 31, 2005. Local jurisdictions are important partners in Washington State's efforts to protect fish and wildlife resources, including salmon and other listed species. We believe the Growth Management Act (GMA) is one of the most important legislative acts affecting important fish and wildlife resources in our state's history. We fully support the local decision-making process in the development of comprehensive plans and critical areas ordinances, and we always endeavor to provide technical assistance to local governments to assist in this important work.

You expressed concern regarding statements made by Washington Department of Fish and Wildlife (WDFW) biologist Dan Penttila in letters to the City of Anacortes on September 23 and December 30, 2004, addressing several marine issues, including possible buffers along marine shorelines. I want to make it clear that Mr. Penttila, acting on behalf of the agency, was not stating that the City of Anacortes must or should adopt marine shoreline buffers of 150 feet, 100 feet, or any other width along the entire working waterfront of Anacortes.

We recognize that shoreline buffers are one tool in the toolbox that local jurisdiction can consider when addressing natural resources. It was Mr. Penttila's intention to suggest that the City of Anacortes can consider buffers as one way to protect the important forage fish spawning habitat, migration corridors for juvenile salmonids, and/or shellfish beds that are located on the city's marine shoreline. Mr. Penttila and the agency understand that, rather than applying a uniform buffer along a shoreline located in an urban growth area, a city may instead opt to apply varying setback distances depending on the nature of the land use proposal and the nature of the marine resources that might be affected by the proposal; these setback distances may vary down to zero feet if significant resources are not affected. In addition, we recognize that a city may want to rely on additional mitigation measures, including offsite protection or restoration activities, again depending on the nature of the project proposal.

Similarly, I want to make it clear that Mr. Penttila was not calling for a retrofit of existing, developed waterfront. It would be entirely up to the City to look for opportunities to re-create a buffer or to implement other enhancements for important aquatic resources if an existing site is ever redeveloped.

The City's commitment to the protection of natural resources was expressed several times. I also heard that marine resources would be protected through the City's existing Shoreline Master Plan (SMP) during the time that the SMP is being updated, and you left with me the appropriate documents outlining this protection. My staff examined the City's 2000 Shoreline Master Plan, and specific references to kelp and eelgrass beds, forage fish spawning areas, and shellfish areas are almost entirely lacking. So I am a bit confused about this issue. In addition, protection measures for natural resources are often phrased as "shall minimize" or "should avoid," and these phrases leave an uncomfortable amount of uncertainty with respect to the long-term survival of affected species. If we could be provided a clearer picture of the specific measures the City intends to implement to protect (or restore) kelp and eelgrass beds, forage fish spawning areas, and shellfish areas during the time that the City's SMP is being updated, that would be greatly appreciated.

It is my understanding that Pierce County has taken a somewhat different approach toward the protection of marine resources as that being proposed by the City of Anacortes. During the development of Pierce County's expedited SMP update, it has chosen to recognize kelp beds, eelgrass beds, shellfish areas, and herring and smelt spawning beaches as critical areas under its existing Critical Areas Ordinance (CAO). The City of Anacortes is proposing to not include these marine resources in its CAO and protections for these sensitive marine areas are not in the City's SMP. We are aware that the Department of Community, Trade, and Economic Development (CTED) has indicated (letter of 1/21/05 to you) that this proposed approach to the protection of marine resources is contrary to the guidance CTED published on the effect of ESHB 1933 (integration of the Shoreline Management Act into the GMA).

We believe there may be a relatively simple remedy to our concerns regarding marine resources protections within the City of Anacortes urban growth area. We suggest that the City keep some of the language it had in an earlier draft of the CAO that identified commercial and recreational shellfish areas, kelp and eelgrass beds, and herring and smelt spawning areas as critical areas. This is the a parallel approach to that being used by Pierce County, and we think it is an appropriate measure that can be applied until a more thorough inventory and analysis can be conducted under the SMP update process.

We trust that the City of Anacortes fully intends to address appropriate protection of important marine resources within its urban growth area, including the working waterfront. We understand and accept that this will require a balancing of goals and objectives, especially those involving economic development and protection of environmental resources. The inventory and analysis that will be conducted during the SMP update will hopefully identify opportunities to make this balance work best for all concerned citizens in Anacortes. That kind of proactive planning has the potential to produce better solutions than the case-by-case approach of a CAO. In the

Dean Maxwell
February 14, 2005
Page 3

meantime, however, the CAO can provide an important safety net for marine resources until your updated SMP is adopted.

WDFW will continue to offer information regarding the locations of important marine resources, recommendations regarding the protection and restoration of these resources, and technical assistance when requested to help address resource issues within the Urban Growth Area and throughout Fidalgo Bay. In particular, WDFW would welcome the opportunity to assist the City of Anacortes in the update of its local SMP when that process begins. Citizens, elected officials, and state agencies generally agree that protection of natural resources and economic development are not mutually exclusive goals, and we can realize the goals of the GMA by being open to the needs and issues of everyone with a stake in the land use planning process.

Again, thank you for taking the time to talk with me on this issue. I and my staff would be happy to discuss these or other resource issues with you at any future time as well. Your best source of assistance is Bob Everitt, our Region 4 Director located in Mill Creek; Bob can be reached at (425) 775-1311 x 118. Bob can best coordinate with the several biologists who work on aquatic and terrestrial resource issues in or near Anacortes.

Sincerely,

Jeff Koenings, Ph.D.
Director

cc:

Bob Everitt
Greg Hueckel